

State of Kansas
Office of the Attorney General
Notice of Public Hearing on Proposed Administrative Regulation

July 17, 2013

A public hearing will be conducted on September 26, 2013, at 10:00 a.m. in the 2nd Floor Auditorium of the Memorial Hall State Office Building, 120 S.W. Tenth Ave., Topeka, Kansas, to consider the adoption of proposed rules and regulations of the Office of the Attorney General, Consumer Protection Division, on a permanent basis.

This 60-day notice of the public hearing shall constitute a public comment period for the purpose of receiving written public comments on the proposed rules and regulations. All interested parties may submit written comments prior to the hearing to the Consumer Protection Division, 120 SW Tenth Ave., 2nd Fl., Topeka, KS, 66612 or by email to cprotect@ksag.org. All interested parties will be given a reasonable opportunity to present their views orally regarding the adoption of the proposed regulations during the public hearing. In order to provide all parties an opportunity to present their views, it may be necessary to request that each participant limit any oral presentation to five minutes.

Any individual with a disability may request an accommodation in order to participate in the public hearing and may request the proposed regulations and economic impact statements in an accessible format. Requests for accommodation to participate in the hearing should be made at least one week in advance of the hearing by contacting Arin Young at (785) 296-2215. The south public entrance to Memorial Hall Office Building is handicap accessible. Handicapped parking is located in front of Memorial Hall and on Jackson Ave., between 9th and 10th streets. A summary of the proposed regulation and its economic impact follow. (Note: Statements indicating that a regulation is “not anticipated to have any economic impact” are intended to indicate that no economic impact on the Office of the Attorney General, other state agencies, state employees, or the general public has been identified.)

Copies of the proposed regulations and the Economic Impact Statement for the proposed regulations can be viewed at the following website:

<http://ag.ks.gov/consumer-protection/roofing-registration/roofing-registration-regulations>

The following regulations are all new regulations, and all listed regulations relate to the Kansas roofing contractor registration act, also known as the Roofing registration act.

K.A.R. 16-8-1: Definitions. This regulation sets forth the definitions for several terms that are not otherwise defined by the Roofing registration act. Since these definitions simply clarify current policy, this regulation is not anticipated to have any economic impact.

K.A.R. 16-8-2: Initial application. This regulation sets forth the process and requirements for filing an initial application for a certificate of registration pursuant to the Roofing registration

act. Since this regulation simply clarifies current policy, this regulation is not anticipated to have any economic impact.

K.A.R. 16-8-3: Renewal Application. This regulation sets forth the process and requirements for filing a renewal application for a certificate of registration pursuant to the Roofing registration act. Since this regulation simply clarifies current policy, this regulation is not anticipated to have any economic impact.

K.A.R. 16-8-4: Suspension, revocation, and reinstatement. This regulation clarifies the attorney general's ability to suspend or revoke a registrant's certificate of registration. This regulation also sets forth the process for seeking reinstatement of such certificate of registration. Since this regulation simply clarifies current policy, this regulation is not anticipated to have any economic impact.

K.A.R. 16-8-5: Incomplete applications. This regulation describes the attorney general's guidelines when an incomplete application for registration is submitted to the attorney general. Since this regulation simply clarifies current policy, this regulation is not anticipated to have any economic impact.

K.A.R. 16-8-6: Fees. This regulation sets forth a schedule of fees for all fees described in the Roofing registration act. This regulation is anticipated to have an economic impact. The following fees will apply to applicants or registrants, as applicable; \$250 for each initial or renewal; \$500 for renewal of a suspended registration certificate; \$750 for reinstatement of a revoked registration certificate; \$250 for late renewal; and \$25 for a change of name or address. The Attorney General believes that the costs are set at the minimum amount necessary to implement and administer the Act while upholding the requirements of the Act.

K.A.R. 16-8-7: Status of registration. This regulation clarifies the various statuses of registration for an applicant or current registrant pursuant to the Roofing registration act. Since this regulation simply clarifies current policy, this regulation is not anticipated to have any economic impact.

**KANSAS ATTORNEY GENERAL’S OFFICE
ECONOMIC IMPACT STATEMENT
K.A.R. 16-8-1; 16-8-2; 16-8-3; 16-8-4; 16-8-5; 16-8-6; and 16-8-7**

I. Summary of Proposed Regulations, Including Their Purposes.

K.A.R. 16-8-1; 16-8-2; 16-8-3; 16-8-4; 16-8-5; 16-8-6; and 16-8-7 are new regulations implementing the Kansas roofing registration act (“Act”). The proposed regulations define certain terms from the Act; describe the requirements for initial, renewal, and reinstatement applications; clarify the attorney general’s authority to suspend or revoke registrations; set forth the fee amounts for applications, late renewal, and a change in name or address as authorized by the Act; clarify the status of a registered roofing contractor, and describe the attorney general’s process when an incomplete application for registration is submitted to the attorney general.

II. Reason the Proposed Regulation is Required, Including Whether the Regulation is Mandated by Federal Law.

The proposed regulations are needed to instruct roofing contractors of the requirements to obtain a registration certificate and inform the public regarding the Act and the attorney general’s administration of the Act. The proposed regulations are not mandated by federal law, and therefore the proposed regulations do not exceed the requirements of federal law. The proposed regulations are specifically authorized in Section 4 of the Act.

III. Anticipated Economic Impact upon the Kansas Attorney General’s Office.

The attorney general will review for completeness and accuracy each application and supporting documents submitted by an applicant seeking a roofing registration certificate. If an application is complete and contains accurate information, the attorney general will issue a roofing registration certificate. If the provided information is incorrect, the attorney may deny the application for registration. The attorney general will create and maintain a publicly

verifiable database for all Act registrants; collect all fees for initial, renewal, and reinstatement applications for roofing certificate registrations; and investigate any complaints regarding a roofing contractor's compliance with the Act. These functions will involve at least two full time employees at an estimated cost of \$116,000 annually in total compensation. There may be initial costs associated with implementing the Act and with administering the Act if applicants or registrants request an administrative hearing on the attorney general's decision regarding their application or registration certificate.

IV. Anticipated Financial Impact upon Other Governmental Agencies and upon Private Businesses or Individuals.

The Kansas Attorney General's Office does not anticipate economic impact on other government agencies. Private businesses or individuals falling under the ambit of the Act will be required to pay a specified fee to process an application. The following fees will apply to applicants, as applicable: \$250 for each initial or renewal; \$500 for renewal of a suspended registration certificate; \$750 for reinstatement of a revoked registration certificate; \$250 for late renewal; and \$25 for a change of name or address.

Adoption of these regulations will require roofing contractors applying for a registration certificate to provide specific documentation; the applicants may incur costs from other entities to provide the documentation required by the Act and the regulations. The more probable expense to a roofing contractor will be to those who have to acquire any insurance required by the Act. There are no costs to the consumers utilizing the services of the roofing contractors.

V. Less Costly or Intrusive Methods Considered

These regulations are the first regulations to be considered, as the Act first became effective July 1, 2013. The Attorney General believes that the costs are set at the minimum

amount necessary to implement and administer the Act while upholding the requirements of the Act.

Article 8.—Roofing Contractors

16-8-1. Definitions. For the purpose of the act and this article, each of the following terms shall have the meaning specified in this regulation:

(a) “Act” means Kansas roofing registration act.

(b) “Applicant” means a person applying for an initial registration certificate or the renewal or reinstatement of a registration certificate.

(c) “Conviction” shall include the following, whether the penalty has been imposed, reduced, or suspended, unless the conviction has been legally expunged:

(1) An unvacated adjudication of guilt;

(2) a plea of guilty or nolo contendere accepted by the court; and

(3) a deferred judgment, diversion, or probation agreement.

(d) “Direct supervision” means that the registered roofing contractor is overseeing the person being supervised and is physically present at the work site.

(e) “Roofing material” shall include cedar, cement, metal, and composition shingles; wood shakes; cement and clay tile; built-up roofing; single-ply roofing materials; fluid-type roofing systems; spray urethane foam; asphalt; protective or reflective materials; deck coatings; sheet metal; and tar.

(f) “Roofing services” shall include the following services on any type of roof:

(1) Installation or repair of any roofing material;

(2) installation or repair of roof sheathing;

(3) installation, application, or repair of roof dampproofing or weatherproofing, roof insulation panels, or other roof insulation systems, including work incidental to the installation or application;

- (4) repair of structural damage to an existing roof-support system;
- (5) extension or repair of vents, drains, or roof penetrations, except electrical penetrations, on an existing structure; and
- (6) installation or repair of skylights.
- (g) “Valid registration certificate” means a roofing contractor registration certificate issued by the attorney general that has not been suspended or revoked. (Authorized by 2013 Sub for HB 2024, § 4; implementing 2013 Sub for HB 2024, §§ 2 and 4; effective, T-_____, _____; effective P-_____.)

16-8-2. Initial application. Each person seeking an initial registration certificate shall submit an application that includes the following:

- (a) An initial application form provided by the attorney general and fully completed by the applicant;
- (b)(1) If the applicant is a natural person, a copy of a current state or federal government-issued photographic identification that demonstrates that the applicant is at least 18 years old; or
- (2) if the applicant is a business entity, a copy of a current state or federal government-issued photograph identification for each designated agent who will act as a roofing contractor for the entity that demonstrates that each designated agent is at least 18 years old;
- (c) a copy of the applicant’s current and valid certificate of liability insurance in an amount of at least \$500,000 from an insurance company authorized by the Kansas insurance department to do business in Kansas;

(d) a copy of the applicant's current and valid certificate of workers' compensation insurance under the Kansas workers' compensation act, an affidavit of exemption, or a copy of a valid self-insurance permit issued by the Kansas department of labor;

(e) a current and valid tax clearance certificate from the Kansas department of revenue;

(f) if the applicant is a nonresident contractor, a current and valid appointment of the Kansas secretary of state as legal agent for service of process;

(g) payment of the initial registration certificate fee specified K.A.R. 16-8-6; and

(h) if the applicant holds or has held a registration, certificate, permit, or license as a roofing contractor issued by any other state, current and certified documentation from the appropriate state agency in each such state showing whether the applicant is in good standing, has pending disciplinary proceedings, or has had disciplinary action taken against the registration, certificate, permit, or license. (Authorized by 2013 Sub for HB 2024, § 4; implementing 2013 Sub for HB 2024, § 5; effective, T-_____, _____; effective P-_____.)

16-8-3. Renewal application. Each person seeking renewal of a registration certificate shall submit a renewal application that includes the following:

(a) A renewal form provided by the attorney general and fully completed by the applicant;

(b) a copy of the applicant's current and valid certificate of liability insurance in an amount of at least \$500,000 from an insurance company authorized by the Kansas insurance department to do business in Kansas;

(c) a copy of the applicant's current and valid certificate of workers' compensation insurance under the Kansas workers' compensation act, an affidavit of exemption, or a copy of a valid self-insurance permit issued by the Kansas department of labor;

(d) a current and valid tax clearance certificate from the Kansas department of revenue;

(e) payment of the applicable fee or fees specified in K.A.R. 16-8-6; and

(f) if the applicant holds or has held a registration, certificate, permit, or license as a roofing contractor issued by any other state, current and certified documentation from the appropriate state agency in each such state showing whether applicant is in good standing, has pending disciplinary proceedings, or has had disciplinary action taken against the registration, certificate, permit, or license. (Authorized by 2013 Sub for HB 2024, § 4; implementing 2013 Sub for HB 2024, § 12; effective, T-_____, _____; effective P-_____.)

16-8-4. Suspension, revocation, and reinstatement. (a) Any registration certificate may be revoked or suspended by the attorney general upon finding that the registered roofing contractor has violated any provision of the act or this article.

(b) Each roofing contractor seeking to reinstate a revoked registration certificate shall submit a reinstatement application that includes the following:

(1) A reinstatement application form provided by the attorney general and fully completed by the applicant;

(2) a copy of the applicant's current and valid certificate of liability insurance in an amount of at least \$500,000 from an insurance company authorized by the Kansas insurance department to do business in Kansas;

(3) a copy of the applicant's current and valid certificate of workers' compensation insurance under the Kansas workers' compensation act, an affidavit of exemption, or a copy of a current and valid self-insurance permit issued by the Kansas department of labor;

(4) a current and valid tax clearance certificate from the Kansas department of revenue;

(5) payment of the reinstatement fee specified in K.A.R. 16-8-6; and

(6) if the applicant holds or has held a registration, certificate, permit, or license as a roofing contractor issued by any other state, current and certified documentation from the appropriate state agency in each such state showing whether applicant is in good standing, has pending disciplinary proceedings, or has had disciplinary action taken against the registration, certificate, permit, or license.

(c) A reinstatement application shall not be submitted until all terms and conditions specified in the revocation order have been fulfilled.

(d) A roofing contractor shall not be required to apply for annual renewal while that roofing contractor's registration certificate is suspended.

(1) If the suspension is lifted in the same fiscal year as that in which the suspension was ordered, the roofing contractor shall pay the renewal fee for a suspended registration certificate specified in K.A.R. 16-8-6 at the time of the next renewal.

(2) If the suspension was ordered in a previous fiscal year, the suspension shall not be lifted until the roofing contractor submits an application for renewal in accordance with K.A.R. 16-8-3, accompanied by payment of the renewal fee for a suspended registration certificate specified in K.A.R. 16-8-6, and the attorney general approves the application. (Authorized by 2013 Sub for HB 2024, § 4; implementing 2013 Sub for HB 2024, §§ 12 and 13; effective, T-_____, _____; effective P-_____.)

16-8-5. Incomplete applications. (a) If an incomplete application for an initial registration certificate or for renewal or reinstatement of a registration certificate is submitted to the attorney general, the applicant may be notified by the attorney general that the application will be held in abeyance for 30 days. If the applicant fails to provide all missing information, documents, and fees within 30 days of this notification, the application shall be deemed abandoned, and all fees accompanying the application shall be retained by the attorney general and shall not be refunded to the applicant.

(b) The timeline specified in the act for issuance of a registration certificate shall not begin until the date on which a complete application is received in the office of the attorney general. (Authorized by 2013 Sub for HB 2024, § 4; implementing 2013 Sub for HB 2024, §§ 5, 10, and 12; effective, T- _____, _____; effective P-_____.)

16-8-6. Fees. (a) Each applicant shall pay the following fee or fees, as applicable:

- | | |
|---|--------|
| (1) Initial registration certificate | \$ 250 |
| (2) Renewal of a registration certificate | \$ 250 |
| (3) Renewal of a suspended registration certificate | \$ 500 |
| (4) Reinstatement of a revoked registration certificate | \$ 750 |
| (5) Late renewal fee | \$ 250 |
| (6) Change of name or address | \$ 25 |

(b) The renewal fee for a suspended registration certificate shall be paid at the time specified in K.A.R. 16-8-4.

(c) If a person submits a complete application for an initial registration certificate to the attorney general on or after January 1 and the attorney general issues the registration certificate on or before April 30 of that year, the applicant shall pay a prorated initial registration certificate fee of \$125 instead of the initial registration certificate fee specified in subsection (a).

(Authorized by 2013 Sub for HB 2024, § 4; implementing 2013 Sub for HB 2024, §§ 8, 10, 11, and 12; effective, T-_____, _____; effective P-_____.)

16-8-7. Status of registration. (a) If a registered roofing contractor ceases to be active as a roofing contractor, the roofing contractor shall notify the office of the attorney general within 10 days, and the roofing contractor's registration certificate shall be suspended by the attorney general pursuant to 2013 substitute for HB 2024, § 11, and amendments thereto. This suspension shall not constitute a suspension for cause requiring payment of additional renewal fees. The suspended registration certificate shall be classified as "inactive." The roofing contractor shall not engage in business as a roofing contractor while that person's registration certificate is inactive. Any registration certificate may be returned to active status as follows:

(1) In the same fiscal year as that in which the registration certificate was initially classified as inactive, if the roofing contractor notifies the office of the attorney general at least 10 days before resuming business as a roofing contractor; or

(2) in a subsequent fiscal year, if the roofing contractor submits a complete renewal application to the office of the attorney general as specified in K.A.R. 16-8-3. However, the certificate shall not be deemed active until the renewal application is approved by the attorney general.

(b) If a roofing contractor's registration certificate is lost or stolen, the roofing contractor shall notify the office of the attorney general within 10 days after discovery of the fact.

(c) Each change in ownership of at least 50 percent of a business entity shall constitute a change in the legal status of the business requiring a new registration certificate pursuant to the act.

(d) If a registration certificate has been issued to a business entity for use by a group of designated roofing contractors and any designated roofing contractor in that group ceases to be an agent or employee of the entity, the entity shall notify the office of the attorney general within 10 days.

(e) Any business entity may designate new employees to act as roofing contractors under the entity's existing registration certificate by submitting an addendum to the entity's application, on a form provided by the attorney general, to the attorney general. (Authorized by 2013 Sub for HB 2024, § 4; implementing 2013 Sub for HB 2024, §§ 7 and 11; effective, T-_____, _____; effective P-_____.)